

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LORI ANNE ARMSTRONG, a single
individual, CHRISTOPHER EDMOND
ARMSTRONG, a single individual,
Plaintiffs,

v.

COUNTY OF KITSAP, a political subdivision
of Washington State; DEPUTY MARK
GUNDRUM, individually and as an agent of
The Kitsap Sheriff's Department, County of
Kitsap; DEPUTY JOSHUA MILLER,
individually and as an agent of The Kitsap
Sheriff's Department, County of Kitsap;
DEPUTY KRISTA R. MCDONALD,
individually and as an agent of The Kitsap
Sheriff's Department, County of Kitsap;
DEPUTY SGT. HYTINEN, individually and as
an agent of The Kitsap Sheriff's Department,
County of Kitsap, SHERIFF STEVEN BOYER,
individually and as an agent of The Kitsap
Sheriff's Department, County of Kitsap;
KITSAP COUNTY SHERIFF'S
DEPARTMENT, a department of Kitsap
County, Washington,
Defendants.

NO.

COMPLAINT FOR DAMAGES

JURY DEMAND

COMES NOW plaintiffs, Lori Armstrong and Christopher Armstrong, by and through their attorneys of record, Stone D. Grissom and The Stenberg Law Firm for their complaint for damages against the above-stated defendants, allege and state as follows:

I. PARTIES

1.1 Plaintiff Lori Anne Armstrong was, at all times in this matter, a resident of Kitsap County, Washington;

1.2 Plaintiff Christopher Edmond Armstrong was, at all relevant times in this matter, a resident of Kitsap County, Washington;

1.3 Defendant County of Kitsap is a political subdivision of Washington State and deemed a person for purposes of 42 U.S.C. § 1983;

1.4 Defendant Mark Gundrum is currently, and was at all relevant times in this matter, a member of the Kitsap County Sheriff's Department;

1.5 Defendant Joshua Miller is currently, and was at all relevant times in this matter, a member of the Kitsap County Sheriff's Department;

1.6 Defendant Krista McDonald is currently, and was at all relevant times in this matter, a member of the Kitsap County Sheriff's Department;

1.7 Defendant Deputy Sgt. Hytinen is currently, and was at all relevant times in this matter, a member of the Kitsap County Sheriff's Department;

1.8 Defendant Steven Boyer is currently, and was at all relevant times in this matter, a member of the Kitsap County Sheriff's Department;

1.9 Defendant Kitsap County Sheriff's Department is currently, and was at all relevant times in this matter, a department of Kitsap County doing business in Kitsap County;

II. JURISDICTION AND VENUE

2.1 This action arises under 42 U.S.C. § 1983. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331. The acts and omissions giving rise to this claim occurred in this district;

2.2 Plaintiffs Lori Armstrong and Christopher Armstrong currently reside and can currently be found in Kitsap County, Washington. Pursuant to 28 U.S.C. § 1391(b), venue is proper in this district;

2.3 Pursuant to Local Rule 5(e) of the Civil Rules for the United States District Court, Western District of Washington, this action is appropriately filed in Tacoma, Washington.

III. FACTS

3.1 On or about May 15, 2003, Plaintiffs were at their home in Olalla, Washington. A family acquaintance, Otto Schwartz, took it upon himself to tow an abandoned vehicle off of Plaintiff's property and inadvertently knocked into the fence that borders the neighbor's home;

3.2 Plaintiffs' neighbors, Malcolm and Dianna McKenna have a long standing property dispute with Plaintiffs. Plaintiffs' neighbors (McKenna) also are known in the area for their disruptive behavior including assaultive behavior toward the local postal carrier. All of this was known to the Kitsap Sheriff's Department;

3.2 Plaintiffs' neighbors (McKenna) called 911 to report that a vehicle had knocked into the fence bordering the property between them and Plaintiffs;

1 3.3 Defendants Gundrum, Miller, and McDonald arrived and without permission
2 by Plaintiffs, came onto their private property and made contact with Plaintiffs. Plaintiff
3 Christopher Armstrong explained what had happened to Defendant Miller;

4 3.4 Defendant Gundrum immediately became verbally abusive and hostile with
5 Plaintiff Lori Armstrong, who was disabled at the time and hard of hearing. Lori Armstrong
6 explained that she felt uncomfortable speaking with the deputies in front of the neighbors.
7 Defendant Gundrum continued his verbal abuse and told her to shut up;

8 3.5 Lori Armstrong, feeling intimidated and embarrassed by the verbal abuse by
9 Defendant Gundrum, requested to speak to Defendant Gundrum's supervisor;

10 3.6 Lori Armstrong turned to retrieve a telephone so that she could request a
11 supervisor to come to the property. Defendant Gundrum yelled at Plaintiff to stop. Defendant
12 Gundrum violently attacked Plaintiff and grabbed her by the back of her head yanking out a
13 large chunk of hair, jerking her head forward and backward, and gripping her neck;

14 3.7 Lori began pleading for Defendant Gundrum to stop attacking her and stating
15 that she was disabled. Defendants Miller and McDonald did nothing to stop Gundrum. Lori
16 Armstrong also informed Defendant Gundrum that her left arm was paralyzed;

17 3.8 Defendant Gundrum continued his assault, ripping her injured arm behind her
18 back and dragging her by her head along the length of the driveway;

19 3.9 Defendant Gundrum continued to abuse and assault Lori Armstrong and
20 purposely and violently slammed her head against the abandoned vehicle;

21 3.10 Christopher Armstrong was forced to witness this event. He attempted to
22 come to the aid of his mother and was assaulted and bodyslammed into the fence by
23 Defendant Miller;

1 3.11 Plaintiff was assaulted by the officers in violation of the constitution as well as
2 their own policies;

3 3.12 After the assaults, Defendants simply left the scene without arresting or citing
4 Lori Armstrong or Christopher Armstrong;

5 3.13 Defendant Steven Boyer, as sheriff, was under a duty to protect the public,
6 which included Plaintiffs Lori Armstrong and Christopher, by properly supervising and
7 training Defendants;

8 3.14 In his position as sheriff, Defendant Boyer either negligently investigated the
9 acts against Plaintiffs or conspired to continue violating Plaintiffs' civil rights by aiding
10 Defendants to cover up their bad acts.

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12 **IV. CAUSE OF ACTION FOR VIOLATION OF 42 U.S.C. § 1983**

13 4.1 Plaintiffs reallege paragraphs 1.1 through 3.15, and assert that
14 Defendants deprived plaintiffs of their constitutional rights under color of state law as
15 prescribed by 42 U.S.C. § 1983;

16 4.2 Defendants assaulted and used excessive force on Plaintiff Lori
17 Armstrong on her private property without any provocation causing her severe injury, which
18 violated her Fourth, First, Eighth, and Fourteenth Amendment rights;

19 4.3 Defendant Gundrum pulled Plaintiff Lori Armstrong's hair with a
20 closed fist causing her to lose a large chunk of her hair and humiliating her in public.
21 Defendant Gundrum continued to assault her by yanking her injured arm behind her back
22 after she informed him that she suffered from a disability and then began dragging her in a
23 violent manner toward the end of her property by her paralyzed arm and head. As such,
24 Defendants violated Plaintiff's constitutional rights to be free from unreasonable seizures and
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1 attacks including Plaintiff's Fourth and Fourteenth Amendment rights as well as her First and
2 Eighth Amendment rights;

3 4.4 Defendants denied Plaintiff basic medical services after the assault.
4 Defendants simply left Plaintiff standing injured without arresting her or calling any medical
5 attention in violation of the Eighth and Fourteenth Amendments to the Constitution;

6 4.5 When Plaintiff Christopher Armstrong attempted to aid his injured
7 mother, Defendants violently body slammed him into a fence which violated his constitutional
8 rights to be free from such attacks and excessive force by law enforcement officers;

9 4.6 Defendants conspired to cover up their bad acts and to defraud the
10 Court by charging Plaintiff Lori Armstrong with a crime several months after the assault. She
11 was forced to endure the very real threat of incarceration and a criminal record during the
12 same time period that she was dealing with the injuries suffered at the hands of Defendants;

13 4.7 Defendants' behavior violated Plaintiff's Fourth, Fifth, Sixth, Eighth,
14 and Fourteenth constitutional rights.

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17 **V. CAUSE OF ACTION FOR NEGLIGENT HIRING, TRAINING AND**
18 **SUPERVISION**

19 5.1 Plaintiffs reallege paragraphs 1.1 through 4.7;

20 5.2 Defendant Boyer had a duty to ensure that the law enforcement officers at the
21 Kitsap County Sheriff's Department are properly trained, hired and supervised. Defendant
22 Boyer also has a duty to ensure that the deputies are properly trained in dealing with
23 individuals who suffer from physical disabilities;

24 5.3 Defendant County of Kitsap had a duty to ensure that the law enforcement
25 officers at the Kitsap County Sheriff's Department are properly trained, hired and supervised.
26

1 5.3 Defendant County of Kitsap had a duty to ensure that the law enforcement
2 officers at the Kitsap County Sheriff's Department are properly trained, hired and supervised.
3 Defendant Kitsap also has a duty to ensure that the law enforcement officers are properly
4 trained in dealing with individuals who suffer from physical disabilities;

5 5.4 Defendants failed to properly investigate the allegations of assault and physical
6 abuse made by Plaintiffs and failed to take reasonable and necessary steps to protect the
7 public;

8 5.5 Defendants not only deprived Plaintiffs of their constitutional rights under
9 color of state law as prescribed by 42 U.S.C. § 1983, but that Defendant County of Kitsap
10 negligently hired, trained, and supervised Defendants;

11 5.6 Such acts and omissions by Defendant County of Kitsap constitute general and
12 gross negligence, negligent hiring, negligent training, and negligent supervision.
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15 **VI. CAUSE OF ACTION FOR DEFAMATION**

16 6.1 Plaintiffs reallege paragraphs 1.1 through 5.7;

17 6.2 Defendants attempted to cover up their bad acts by accusing Plaintiff Lori
18 Armstrong of a criminal act;

19 6.3 Defendants made false allegations against Plaintiffs to third parties knowing
20 that their verbal and written statements would injure the character and reputation of Plaintiffs;

21 6.4 Defendants' acts constitute defamation.
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23 **VII. CAUSE OF ACTION FOR OUTRAGE**

24 7.1 Plaintiffs reallege paragraphs 1.1 through 6.4;

25 7.2 Defendants' acts constitute the tort of outrage.
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VIII. CAUSE OF ACTION FOR ASSAULT

- 1 8.1 Plaintiffs reallege paragraphs 1.1 through 7.2;
- 2 8.2 Defendants unlawfully assaulted Plaintiffs;
- 3 8.3 As a direct and proximate cause of Defendants' assaults, Plaintiffs suffered
- 4 injuries.

5 **IX. JURY DEMANDED**

6 Plaintiffs hereby demands a trial by jury under F.R.C.P. 38.

7 **X. PRAYER FOR RELIEF**

8 WHEREFORE, having fully set forth their complaint for damages above, plaintiffs

9 Lori Armstrong and Christopher Armstrong individually and jointly and severally pray for the

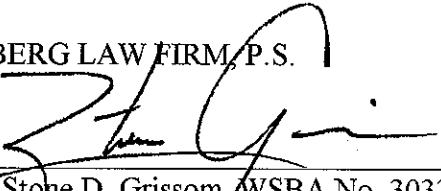
10 following relief:

- 11 1. Judgment against Defendants for all general and compensatory damages
- 12 proximately caused by their wrongdoings;
- 13 2. Plaintiffs also seeks unspecified punitive damages under 42 U.S.C. § 1983 for
- 14 gross violations of plaintiffs' civil rights;
- 15 3. An award of attorneys' fees and costs;
- 16 4. A trial by jury; and
- 17 5. Such other and further relief as this Court deems just and proper.

18 Dated this 5th day of August, 2004.

19 STENBERG LAW FIRM, P.S.

20 By

21 
22 Stone D. Grissom, WSBA No. 30332
23 stone@stenberglaw.com
24 Attorneys for Plaintiff
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